

REMARKS

This Amendment is being filed in response to the Final Office Action mailed January 5, 2009 which has been reviewed and carefully considered. Entry of the present amendment and allowance of the present application in view of the amendments made above and the remarks to follow are respectfully requested.

Claims 1-12 remain in this application, where claims 1, 4 and 12 are independent.

By means of the present amendment, claims 1-12 have been amended for non-statutory reasons, such as for better form including beginning the dependent claims with 'The' instead of 'A', changing "characterized in that" to --wherein--, and deleting reference numerals typically used in European practice that are known to not limit the scope of the claims. Such amendments to claims 1-12 were not made in order to address issues of patentability and Applicants respectfully reserve all rights under the Doctrine of Equivalents.

In the Final Office Action, the Examiner indicated that claims 4-5 would be allowable if rewritten in independent form.

Applicants gratefully acknowledge the indication that claims 4-5 contain patentable subject matter. By means of the present amendment, claim 4 has been rewritten in independent form. Accordingly, it is respectfully requested that independent claim 4 be allowed. In addition, it is respectfully requested that claim 5 also be allowed at least based on their dependence from independent claim 4 as well as their individually patentable elements.

In the Final Office Action, claims 1, 6-8 and 11-12 are rejected under 35 U.S.C. §103(a) over U.S. Patent No. 6,626,532 (Nishioka) in view of U.S. Patent Application Publication No. 2003/0161044 (Tokoyoda). Further, claims 2-3 are rejected under 35 U.S.C. §103(a) over Nishioka in view of Tokoyoda and Applicants' Admitted Prior Art (AAPA). Claims 9-10 are rejected under 35 U.S.C. §103(a) over Nishioka in view of Tokoyoda and U.S. Patent No. 4,850,682 (Gerritsen). It is respectfully submitted that claims 1-3 and 6-12 are patentable over Nishioka, Tokoyoda, AAPA and Gerritsen for at least the following reasons.

Nishioka is directed to vari-focal spectacles. As shown in FIG 55, a transparent substrate 219 has sawtooth-shaped grooves. As clearly shown in FIG 55, all the grooves have the same width.

Similarly, Tokoyoda discloses in FIGs 1-9 grooves have the same width, such as the widths of the first diffraction grating 311 of the first optical element 310 shown in FIG 9.

Gerritsen is also similar to Nishioka and Tokoyoda in that the diffraction grating surface 12 shown in FIGs 1A-1B, and the diffraction grating surface 28 and the diffraction grating surface 31 shown in FIG 2, each have the same widths. While the width of the diffraction grating surface 28 is different from the width of the diffraction grating surface 31, the widths of the diffraction grating surface 28 are identical to each other, and the widths of the diffraction grating surface 31 are identical to each other.

In stark contrast, the present invention as recited in independent claim 1, and similarly recited in independent claim 12, amongst other patentable elements recites (illustrative emphasis provided):

wherein widths of the first plurality of grooves vary from an edge to a center of the diffraction element.

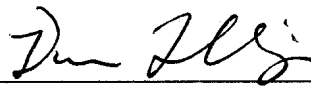
Widths of grooves that vary from an edge to a center of the diffraction element are nowhere disclosed or suggested in Nishioka, Tokoyoda, AAPA, Gerritsen, and combinations thereof. Accordingly,

it is respectfully requested that independent claims 1 and 12 be allowed. In addition, it is respectfully requested that claims 2-3 and 6-11 also be allowed at least based on their dependence from independent claim 1 as well as their individually patentable elements.

In addition, Applicant denies any statement, position or averment of the Examiner that is not specifically addressed by the foregoing argument and response. Any rejections and/or points of argument not addressed would appear to be moot in view of the presented remarks. However, the Applicant reserves the right to submit further arguments in support of the above stated position, should that become necessary. No arguments are waived and none of the Examiner's statements are conceded.

In view of the above, it is respectfully submitted that the present application is in condition for allowance, and a Notice of Allowance is earnestly solicited.

Respectfully submitted,

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